

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application	)	Application No. C-1628
of the Nebraska Public Service	)	
Commission, on its own motion,	)	RULING ON MOTION
seeking to conduct an investi-	)	
gation into intrastate access	)	
charge reform.	)	Entered: February 2, 1999

BY THE COMMISSION:

This order disposes of the Motion for Rehearing or Reconsideration of AT&T Communications of the Midwest, Inc. (AT&T) and MCI Telecommunications Corporation (MCI) filed on January 25, 1999 (the Motion). Oral argument on the Motion was heard by the Commission on Friday, January 29, 1999, at 10:30 a.m. in the Commission Hearing Room, and all interested parties were afforded an opportunity to address the issues raised in the Motion.

O P I N I O N     A N D     F I N D I N G S

AT&T and MCI argued that the Findings and Conclusions entered by the Commission on January 13, 1999, in this Docket (the order), which authorized the funding of the Nebraska Universal Service Fund (NUSF) through an assessment on both intrastate and interstate telecommunications revenues was improper because (i) the Commission lacks jurisdiction to regulate or assess interstate telecommunications services in light of the Federal Communications Commission's (FCC) exclusive jurisdiction over interstate telecommunications services, and (ii) as a matter of public policy, in light of the FCC's current policy of funding the federal Universal Service Fund exclusively through assessments on interstate services, assessing interstate telecommunications services would result in a disproportionate and inequitable burden on interstate customers, which would have a dramatic negative impact on the economic viability of many important Nebraska businesses with significant interstate calling volumes.

US West Communications, Inc. (US West), Aliant Communications Co. (Aliant) and the Nebraska Independent Telephone Association (NITA) argued that the Commission does have authority and jurisdiction to assess interstate revenues and that assessing both intrastate and interstate revenues would spread the burden of funding NUSF among all consumers - residential, small business, and large companies - in an equitable and nondiscriminatory manner and would alleviate technical and administrative problems arising from separating interstate from intrastate revenues, particularly as technology progresses and as a variety of services and calling plans become

packaged.

Having carefully evaluated the positions of the Parties and the comments and concerns submitted by the public, the Commission finds that compelling public policy considerations dictate that the NUSF should, until further determination by the Commission, be funded via a surcharge on retail end user revenues from solely intrastate telecommunications services. In light of these compelling public policy considerations, the Commission does not make findings or conclusions concerning the Commission's jurisdiction over interstate telecommunications services. The Commission will further consider those portions of the order which define the annual surcharge rate and the fund size in light of the ruling.

O R D E R

IT IS THEREFORE ORDERED by the Commission that the Motion is hereby granted to the extent described above.

MADE AND ENTERED at Lincoln, Nebraska, the 2nd day of February, 1999.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING

Chairman

ATTEST:

Executive Director

CONCURRING OPINION OF LOWELL C. JOHNSON

I concur with the Opinions and Findings expressed by the majority of the Commission in this matter, and the Ruling on the Motion approved by a majority vote, on February 2, 1999.

While I was unable to attend our regularly scheduled meeting at which this Ruling was entered, I want the record to reflect that I am in support of said Ruling and that had I been in attendance, I would have voted in favor of the Ruling.

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Commissioner Lowell C. Johnson

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